

2005 DRAFTING REQUEST

Bill

Received: **11/21/2005**

Received By: **chanaman**

Wanted: **As time permits**

Identical to LRB:

For: **Mary Lazich (608) 266-5400**

By/Representing: **Kevin**

This file may be shown to any legislator: **NO**

Drafter: **chanaman**

May Contact:

Addl. Drafters:

Subject: **State Finance - bonding**

Extra Copies:

Submit via email: **YES**

Requester's email: **Sen.Lazich@legis.state.wi.us**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Eliminate transitional halfway house program authorization

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	chanaman 11/21/2005	lkunkel 11/22/2005					
/1			chaugen 11/23/2005		lemery 11/23/2005	sbasford 01/27/2006	

FE Sent For:

<END>

→ Not Needed

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Pre Topic:

No specific pre topic given

Topic:

Eliminate transitional halfway house program authorization from 2001-03 budget

Instructions:

See Attached

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FE Sent For:

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2005 BILL

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eliminate
transitional
halfway house
building
authority

1 AN ACT *to renumber* 980.01 (1); *to renumber and amend* 980.08 (5) and
2 980.105; *to amend* 20.866 (2) (v), 301.46 (5) (c) (intro.), 980.09 (1) (c), 980.09
3 (2) (c), 980.101 (2) (a) and 980.105 (title); *to create* 73.03 (11m), 301.46 (5) (bm),
4 946.465, 980.01 (1b), 980.01 (1g), 980.08 (5) (b) 4., 980.08 (5) (c), 980.08 (6),
5 980.08 (7), 980.1005 and 980.105 (2m) of the statutes; and *to affect* 2003
6 Wisconsin Act 187, section 7m; *relating to:* global positioning system tracking
7 for sexually violent persons, placement of persons on supervised release,
8 changes to the sex offender registry Web site, and providing a penalty

✓

Keep

Analysis by the Legislative Reference Bureau

Under current law, a person who commits a sexually violent offense may be committed to the Department of Health and Family Services (DHFS) after serving a sentence or disposition for the offense if a court finds that the person is a sexually violent person. Current law defines a "sexually violent person" as a person: 1) who has been convicted of, or adjudicated delinquent for, a sexually violent offense or who has been found not guilty of a sexually violent offense by reason of mental disease, defect, or illness; and 2) who is dangerous because he or she suffers from a mental disorder that makes it more likely than not that he or she will engage in acts of sexual violence.

BILL

A person committed to DHFS as a sexually violent person is initially placed in institutional care. After 18 months, a sexually violent person may petition the court for supervised release, which allows the person to reside in the community subject to the conditions set by the court and to the rules of DHFS. If a person petitions the court for supervised release, the court must grant the petition unless the state proves that the person is still a sexually violent person or the person has not demonstrated significant progress in his or her treatment or has refused treatment.

If a court determines that supervised release is appropriate, DHFS must make its best effort to place the person in the county in which the person lived at the time of the sexually violent offense. DHFS and the county in which the person is to be placed must prepare a plan for treating and monitoring the person upon his or her release. Current law specifies what the plan must contain (such as what services the person will receive in the community). In addition, current law requires DHFS, when developing the supervised release plan, to consider the proximity of the person's proposed residence to the homes of certain other sex offenders. Then, within 60 days after the court's determination that supervised release is appropriate, DHFS and the county in which the person is to be placed must submit the supervised release plan to the court for its approval. Under this bill, if the person is placed in the county in which he or she lived at the time of the sexually violent offense, and that county has a population of over 500,000 people (currently only Milwaukee County), DHFS must make its best effort to place the person in the city, town, or village in which he or she lived at the time of the sexually violent offense.

This bill reimburses a city, village, town, or county (local governmental unit) that opens a residential facility for persons on supervised release (facility). A local governmental unit that opens a facility that houses at least one person on supervised release will receive a payment from DHFS equivalent to the wages and fringe benefits, including up to a 3 percent increase per year, for three local law enforcement positions provided by each such local governmental unit.

The bill also requires DHFS to pay each taxing jurisdiction in which a facility is located an amount equal to the amount of property taxes that the taxing jurisdiction would have imposed on the facility or dwelling in the previous year, had the facility or dwelling been subject to such taxes, multiplied by three. In addition, if the assessor of the taxation district where the facility is located determines that the assessed value of any property located within 3,000 feet of the facility is less than the property's assessed value in the previous year as a result of the property's proximity to the facility, DHFS must pay the property owner the difference between the property's assessed value in the previous year and its assessed value in the current year. Furthermore, if a person who owns property that is located within 3,000 feet of the facility sells the property for an amount that is less than the amount determined by multiplying the assessed value of the property by the average percentage over assessed value that comparable property in the county where the person's property is located sold for in the previous year, DHFS must reimburse the property owner for the difference between the property's sale price and an amount equal to the assessed value of the property multiplied by the average percentage over

BILL

assessed value that comparable property in the county where the person's property is located sold for in the previous year.

This bill adds conditions for supervised release. A person who is on supervised release must be tracked by DHFS using a global position system (GPS) tracking device. DHFS must create "exclusion zones" for each person. The bill defines an "exclusion zone," for all tracked persons, to be a 300-foot radius surrounding a child care facility; a state, county, city, town, or village park; a youth or community center; a public swimming pool; or the grounds of a public or private school. An "exclusion zone" may also be any zone that is a prohibited zone under the tracked person's individualized conditions of supervised release. The GPS tracking device will alert DHFS if a tracked person enters an exclusion zone. This bill also prohibits a person on supervised release from living within 3,000 feet of a child care facility; a state, county, city, town, or village park; a youth or community center; a public swimming pool; or the grounds of a public or private school. In addition, for the first year of supervised release, DHFS must restrict the person to his or her home except for employment purposes, religious purposes, or for caring for basic living needs.

Under current law, a person may petition the committing court for discharge from DHFS custody with or without the approval of the secretary of health and family services. The court must grant the petition unless the state proves that the person is still a sexually violent person. This bill requires DHFS to use a GPS tracking device to track a person who has been otherwise discharged from DHFS custody. The discharged person is subject to the same general exclusion zones as a person on supervised release.

This bill prohibits a person from tampering with a GPS device required by the bill. A person who violates this prohibition is guilty of a felony and may be fined up to \$10,000, sentenced to a term of imprisonment of up to three years and six months, or both.

Current law requires a person who commits a specified sex offense in Wisconsin to register as a sex offender with the Department of Corrections (DOC). A person who commits a sex offense in another state and who resides, attends school, or works within this state is also required to register with DOC. DOC must provide access to information about the registry on an Internet site. This bill specifies what information must be provided on the Internet site, including notification that the person is a sexually violent person, a current photograph of the person, the person's name and home address, the time and place of any scheduled hearings, the name and court of the judge who authorized supervised release or discharge for the person, and the date that the information was last updated.

This bill deletes from the 2001-03 authorized state building program a project for DHFS identified as "Transitional halfway house." The project is to be funded with \$1,295,500 in general fund supported borrowing.

Because this bill creates a new crime or revises a penalty for an existing crime, the Joint Review Committee on Criminal Penalties may be requested to prepare a report concerning the proposed penalty and the costs or savings that are likely to result if the bill is enacted.

*This bill
= also eliminates
the committee
that is to
assist the
state in
determining the location
of the transitional
facility.*

BILL

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

X
1 **SECTION 1.** 20.866 (2) (v) of the statutes is amended to read:

2 20.866 (2) (v) *Health and family services; mental health and secure treatment*
3 *facilities.* From the capital improvement fund, a sum sufficient for the department
4 of health and family services to acquire, construct, develop, enlarge or extend mental
5 health and secure treatment facilities. The state may contract public debt in an
6 amount not to exceed \$129,057,200 \$127,761,700 for this purpose.

7 **SECTION 2.** 73.03 (11m) of the statutes is created to read:

8 73.03 (11m) To annually determine, by county and class of property, the
9 average percentage over assessed value that all property in the state sold for in the
10 previous year and to publish the information under this subsection for purposes of
11 s. 980.08 (6) (d).

12 **SECTION 3.** 301.46 (5) (bm) of the statutes is created to read:

13 301.46 (5) (bm) The department shall provide on the Internet site required
14 under sub. (5n) the following information concerning persons registered under s.
15 301.45:

16 1. If the person is a sexually violent person, as defined in s. 980.01 (7), a notice,
17 written in red letters, of that status.

18 2. A current color photograph of the person, if available, and a physical
19 description including sex, race, height, weight, eye color, and hair color.

20 3. The person's name and home address.

BILL

1 4. Whether the person has responded to the last contact letter from the
2 department.

3 5. The crime committed for which the person must register.

4 6. Any conditions of the person's supervised release, except for any condition
5 that may reveal the identity of the victim of the crime that the person committed for
6 which he or she must register.

7 8. The date, time, and place of any scheduled hearings for supervised release
8 or discharge under ch. 980.

9 9. The name and court of the judge who authorized supervised release or
10 discharge for the person.

11 10. The most recent date on which the information was updated.

12 **SECTION 4.** 301.46 (5) (c) (intro.) of the statutes, as affected by 2005 Wisconsin
13 Act 5, is amended to read:

14 301.46 (5) (c) (intro.) The department may not provide any of the following
15 under par. (a) or (bm):

16 **SECTION 5.** 946.465 of the statutes is created to read:

17 **946.465 Tampering with a global positioning system tracking device.**

18 Whoever intentionally tampers with a global positioning system tracking device that
19 is required under s. 980.08 (7) or 980.1005 is guilty of a Class I felony.

20 **SECTION 6.** 980.01 (1) of the statutes is renumbered 980.01 (1d).

21 **SECTION 7.** 980.01 (1b) of the statutes is created to read:

22 980.01 (1b) "Child care facility" means a child care facility that is operated by
23 a person licensed under s. 48.65 or 48.69 or certified under s. 48.651 or that is
24 established or contracted for under s. 120.13 (14).

25 **SECTION 8.** 980.01 (1g) of the statutes is created to read:

BILL

SECTION 8

1 980.01 (1g) "Exclusion zone" means a zone in which a person who is tracked
2 using a global positioning tracking system device is prohibited from entering except
3 for purposes of traveling through to get to another destination. An "exclusion zone"
4 includes a 300-foot radius surrounding a child care facility; a state, county, city,
5 town, or village park; a youth or community center; a swimming pool that is open to
6 the public; and the grounds of a public or private school. An "exclusion zone" may
7 include any zone that the person who is tracked is prohibited from entering as a
8 condition of supervised release.

9 **SECTION 9.** 980.08 (5) of the statutes is renumbered 980.08 (5) (a) and amended
10 to read:

11 980.08 (5) (a) If the court finds that the person is appropriate for supervised
12 release, the court shall notify the department. The Subject to par. (c), the department
13 shall make its best effort to arrange for placement of the person in a residential
14 facility or dwelling that is in the person's county of residence, as determined by the
15 department under s. 980.105 (1m). If the county of residence is a county with a
16 population of at least 500,000, the department, subject to par. (c), shall make its best
17 effort to arrange for placement of the person in a facility or dwelling that is in the
18 person's city, town, or village of residence, as determined by the department under
19 s. 980.105 (2m).

20 (b) The department and the county department under s. 51.42 in the county of
21 residence of the person shall prepare a plan that identifies the treatment and
22 services, if any, that the person will receive in the community. The department may
23 contract with a county department, under s. 51.42 (3) (aw) 1. d., with another public
24 agency, or with a private agency to provide the treatment and services identified in
25 the plan. The plan shall address do all of the following:

BILL

1 1. Address the person's need, if any, for supervision, counseling, medication,
2 community support services, residential services, vocational services, and alcohol or
3 other drug abuse treatment. ~~In developing a plan for where the person may reside~~
4 ~~while on supervised release, the department shall consider the proximity of any~~
5 ~~potential placement to the residence of other persons on supervised release and to~~
6 ~~the residence of persons who are in the custody of the department of corrections and~~
7 ~~regarding whom a sex offender notification bulletin has been issued to law~~
8 ~~enforcement agencies under s. 301.46 (2m) (a) or (am). If~~

9 2. If the person is a serious child sex offender, ~~the plan shall~~ address the
10 person's need for pharmacological treatment using an antiandrogen or the chemical
11 equivalent of an antiandrogen. ~~The department may contract with a county~~
12 ~~department, under s. 51.42 (3) (aw) 1. d., with another public agency or with a private~~
13 ~~agency to provide the treatment and services identified in the plan. The plan shall~~
14 ~~specify~~

15 3. Specify who will be responsible for providing the treatment and services
16 identified in the plan.

17 (d) The plan shall be presented to the court for its approval within 60 days after
18 the court finding that the person is appropriate for supervised release, unless the
19 department, county department and person to be released request additional time
20 to develop the plan. If the county department of the person's county of residence
21 declines to prepare a plan, the department may arrange for another county to
22 prepare the plan if that county agrees to prepare the plan and if the person will be
23 living in that county. If the department is unable to arrange for another county to
24 prepare a plan, the court shall designate a county department to prepare the plan,
25 order the county department to prepare the plan and place the person on supervised

BILL**SECTION 9**

1 release in that county, except that the court may not so designate the county
2 department in any county where there is a facility in which persons committed to
3 institutional care under this chapter are placed unless that county is also the
4 person's county of residence.

5 **SECTION 10.** 980.08 (5) (b) 4. of the statutes is created to read:

6 980.08 (5) (b) 4. For the first year of supervised release, restrict a person on
7 supervised release to his or her home except for employment purposes, for religious
8 purposes, or for caring for basic living needs.

9 **SECTION 11.** 980.08 (5) (c) of the statutes is created to read:

10 980.08 (5) (c) 1. In developing a plan for where the person may reside while on
11 supervised release, the department shall consider the proximity of any potential
12 placement to the residence of other persons on supervised release and to the
13 residence of persons who are in the custody of the department of corrections and
14 regarding whom a sex offender notification bulletin has been issued to law
15 enforcement agencies under s. 301.46 (2m) (a) or (am).

16 2. In developing a plan for where the person may reside while on supervised
17 release, the department may not consider a location that is within 3,000 feet of the
18 grounds of a public or private school; a state, county, city, village or town park; a child
19 care facility; a swimming pool that is open to members of the public; or a youth center
20 or community center.

21 3. In developing a plan for where the person may reside while on supervised
22 release, the department may consider placement in another state if that state
23 requires such person to be tracked using a global positioning system tracking device.

24 **SECTION 12.** 980.08 (6) of the statutes is created to read:

BILL

1 980.08 (6) (a) The department shall make a payment equivalent to the wages
2 and fringe benefits for 3 local law enforcement positions provided by each city,
3 village, town, or county for each local governmental unit with a residential facility
4 or dwelling that houses at least one person placed on supervised release under this
5 section. For as long as the residential facility or dwelling houses at least one person
6 placed on supervised release, the payments shall be annual and shall include up to
7 a 3 percent increase in wages and fringe benefits per year.

8 (b) Annually, the department shall pay each taxing jurisdiction, as defined in
9 s. 74.01 (7), where a residential facility or dwelling as described in par. (a) is located
10 an amount that is equal to the amount of general property taxes under ch. 70 that
11 the taxing jurisdiction would have imposed on the facility or dwelling in the previous
12 year, had the facility or dwelling been subject to those taxes, multiplied by 3.

13 (c) In any assessment year under ch. 70 for which the assessor of the taxation
14 district, as defined in s. 70.045, where a residential facility or dwelling as described
15 in par. (a) is located determines that the assessed value of any property located in
16 whole or in part within 3,000 feet of the facility or dwelling is less than the property's
17 assessed value in the previous year and that the decrease in value is attributable to
18 the property's proximity to the facility or dwelling, the department shall pay the
19 property owner an amount that is equal to the property's assessed value in the
20 previous year, minus the property's assessed value in the year for which the assessor
21 made his or her determination under this paragraph.

22 (d) 1. If a person who owns property that is located in whole or in part within
23 3,000 feet of a residential facility or dwelling as described in par. (a) sells the property
24 for an amount that is less than the amount determined by multiplying the assessed
25 value of the property by the average percentage over assessed value that comparable

BILL**SECTION 12**

1 property in the county where the person's property is located sold for in the previous
2 year, as determined under s. 73.03 (11m), the department shall pay the person an
3 amount determined as follows:

4 a. Multiply the assessed value of the person's property by the average
5 percentage over assessed value that comparable property in the county where the
6 person's property is located sold for in the previous year.

7 b. Subtract the amount that the person received from the sale of his or her
8 property from the amount determined under subd. 1. a.

9 2. No person may receive a payment under this paragraph unless the person
10 applies to the department, in the manner prescribed by the department, and the
11 person sells the property at a price that reflects the approximate full market value
12 of the property as determined under s. 70.32.

13 **SECTION 13.** 980.08 (7) of the statutes is created to read:

14 980.08 (7) If a person is granted supervised release under this chapter the
15 department shall have the person tracked using a global positioning system tracking
16 device as a condition of supervised release. The global positioning system tracking
17 device shall be programmed to alert the department if the person enters an exclusion
18 zone.

19 **SECTION 14.** 980.09 (1) (c) of the statutes is amended to read:

20 980.09 (1) (c) If the court is satisfied that the state has not met its burden of
21 proof under par. (b), the petitioner shall be discharged, except as provided in s.
22 980.1005, from the custody or supervision of the department. If the court is satisfied
23 that the state has met its burden of proof under par. (b), the court may proceed to
24 determine, using the criteria specified in s. 980.08 (4) (b), whether to modify the
25 petitioner's existing commitment order by authorizing supervised release.

BILL

1 **SECTION 15.** 980.09 (2) (c) of the statutes is amended to read:

2 980.09 (2) (c) If the court is satisfied that the state has not met its burden of
3 proof under par. (b), the person shall be discharged, except as provided in s. 980.1005,
4 from the custody or supervision of the department. If the court is satisfied that the
5 state has met its burden of proof under par. (b), the court may proceed to determine,
6 using the criteria specified in s. 980.08 (4) (b), whether to modify the person's existing
7 commitment order by authorizing supervised release.

8 **SECTION 16.** 980.1005 of the statutes is created to read:

9 **980.1005 Lifetime tracking of discharged persons.** Except as provided in
10 s. 980.101 (2) (a), if a person is discharged under this chapter, the department shall
11 have the person tracked using a global positioning system tracking device for the
12 duration of the person's lifetime.

13 **SECTION 17.** 980.101 (2) (a) of the statutes is amended to read:

14 980.101 (2) (a) If the sexually violent offense was the sole basis for the
15 allegation under s. 980.02 (2) (a) and there are no other judgments relating to a
16 sexually violent offense committed by the person, the court shall reverse, set aside,
17 or vacate the judgment under s. 980.05 (5) that the person is a sexually violent
18 person, vacate the commitment order, and discharge the person from the custody or
19 supervision of the department, including the tracking requirement under s.
20 980.1005.

21 **SECTION 18.** 980.105 (title) of the statutes is amended to read:

22 **980.105 (title) Determination of county or city, village, or town of**
23 **residence.**

24 **SECTION 19.** 980.105 of the statutes is renumbered 980.105 (1m), and 980.105
25 (1m) (b), as renumbered, is amended to read:

BILL**SECTION 19**

1 980.105 (1m) (b) The department shall apply the criteria for consideration of
2 residence and physical presence under sub. (1) par. (a) to the facts that existed on the
3 date that the person committed the sexually violent offense that resulted in the
4 sentence, placement, or commitment that was in effect when the petition was filed
5 under s. 980.02.

6 **SECTION 20.** 980.105 (2m) of the statutes is created to read:

7 980.105 (2m) The department shall determine a person's city, village, or town
8 of residence for the purposes of s. 980.08 (5) (a) by doing all of the following:

9 (a) The department shall consider residence as the voluntary concurrence of
10 physical presence with intent to remain in a place of fixed habitation and shall
11 consider physical presence as prima facie evidence of intent to remain.

12 (b) The department shall apply the criteria for consideration of residence and
13 physical presence under par. (a) to the facts that existed on the date that the person
14 committed the sexually violent offense that resulted in the sentence, placement, or
15 commitment that was in effect when the petition was filed under s. 980.02.

16 **SECTION 21.** 2003 Wisconsin Act 187, section 7m is repealed.

17 **SECTION 22. Nonstatutory provisions.**

18 (1) BUILDING COMMISSION. In 2001 Wisconsin Act 16, section 9107 (1) (d) 1.,
19 under projects financed by general fund supported borrowing, the 2001–03 state
20 building program project identified as Transitional halfway house is deleted and the
21 appropriate totals are decreased accordingly.

22 **SECTION 23. Initial applicability.**

23 (1) The treatment of section 980.08 (7) of the statutes first applies to all persons
24 who are on supervised release on the effective date of this subsection.

BILL

1 (2) The treatment of section 980.1005 of the statutes first applies to all persons
2 who are discharged under chapter 980 of the statutes on the effective date of this
3 section.

(3) The treatment of section 980.08 (6) of the statutes first applies to a city, village, town, or county that opens a residential facility or dwelling that houses at least one person on supervised release on the effective date of this subsection.

7 **SECTION 24. Effective dates.** This act takes effect on the day after publication,
8 except as follows:

9 (1) The treatment of section 980.08 (7) of the statutes and SECTION 23 (1), (2),
10 and (3) of this act take effect on the first day of the 6th month beginning after
11 publication.

12 (END)

Emery, Lynn

From: Sieg, Tricia
Sent: Friday, January 27, 2006 2:29 PM
To: LRB.Legal
Subject: Draft review: LRB 05-4129/1 Topic: Eliminate transitional halfway house program authorization

It has been requested by <Sieg, Tricia> that the following draft be jacketed for the SENATE:

Draft review: LRB 05-4129/1 Topic: Eliminate transitional halfway house program authorization